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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,926	04/14/2004	Herbert Huttlin	03928-P0007A	5298
24126	7590	04/11/2006	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			EDWARDS, LAURA ESTELLE	
			ART UNIT	PAPER NUMBER

1734

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/823,926

Applicant(s)

HUTTLIN, HERBERT

Examiner

Laura Edwards

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

*Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, drawn to a process, classified in class 134, subclass 25.1.
- II. Claims 7-29, drawn to an apparatus, classified in class 118, subclass 19.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus can be used for another and materially different process such as a gas purification/conditioning system.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Wesley Whitmyer on 11/21/05 a provisional election was made with traverse to prosecute the invention of Group II, claims 7-29. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-6 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Specification***

The abstract of the disclosure is objected to because it contains legal phraseology, i.e., "means" in line 7. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informality: on page 22, line 4, "vertical wall 42" should be changed to --vertical wall 72--..

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

Claims 7-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, Applicant recites an apparatus for treating particulate material, however, it is unclear how the particulate material is fed into/out of the apparatus and it is unclear how the apparatus is particularly suited or functions to treat the particulate material because there is no treating structure recited in the body of the claim.

*The following rejections have been made based solely upon English abstracts, the drawings of the references cited, and the admitted state of the prior art as set forth by Applicant in the instant specification on pages 1-4. In the interim, the office will make English translations and copies of the translations will be provided to Applicant in the next office action. The following rejections may be subject to change in light of the completed English translations.*

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-20, 23-25, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Huettlin (WO00/10699).

Huettlin teaches an apparatus for treating particulate material with a coating substance comprising a container (24) having an upper opening for receiving the particulate material, the container having a base, an upright wall (28) widening from bottom to top, and a deflection means (42, 86) adjoining said wall in an upper region of said container in order to deflect a direction of movement of said material, the container including a central spray nozzle (60) therein for spraying coating on the particulate material; the container wall being rotatable via drive means (30, 36) about a vertical axis of rotation; at least a first air gap or opening (area about element 12) defined by a transition region between the wall, and an inclined return surface (52) toward the deflection means; and an air feed device (66) for feeding an air stream through an apertured base plate of the container while feeding a portion of the air stream through an apertured sidewall of the container to the first air gap within the container; at least one of said first air gap and said air feed device being configured such that said air stream introduced through said first air gap has a direction of flow (i.e., flow component) oriented substantially from the bottom to the top of the container and, in a region adjoining said air gap, oriented

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substantially tangentially with respect to the course of at one of the wall up to the deflection means.

With respect to the inclusion of a second air gap, Huettlin provides a second air gap or opening spaced apart but disposed vertically above the first air gap, the second air gap defined by the area (i.e., area about element 54) between the upper portion of the return surface and baffle element (54) wherein the air feed device provides the air stream from the bottom to the top of the container and in a region adjoining the first air gap through the to second air gap, the air remaining to flow tangentially with respect to the course of at least one of the wall and the deflection element.

With respect to first and second feed ducts, the air stream is fed from the bottom of the container though a first feed duct inlet (area 66) but then the air stream is separated into two paths, the first path or first feed duct directs the air stream through the apertured container base while the second path or second feed duct defined by the outer wall of the container and the wall of the air exhaust, directs the air stream through the apertured sidewall of the container.

With respect to the deflection means, part of the upper wall of the container defines a deflection element, said part of the upper wall having a degree of curvature to direct the airflow and particulate material toward the return surface. In addition, the deflection means includes a separate outer element (42) which appears to be connected to a [pneumatic cylinder] (58), the Separate outer element does not appear to be attached to the container such that it would not corotate with the wall of the container.

With respect to the deflection means being apertured or permeable, the outer wall of the container includes apertures and since the deflection means includes an extended part of the wall,

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it would be air permeable. The other portion of the deflection means (42) would appear to be air permeable because an exhaust duct (76 or 80) extends from the curved deflection element outside of the wall.

With respect to the first air gap being adjustable, Huettlin shows in Fig. 2, that the return surface and central parts of the apparatus can be removed such that the width of the air gap would be adjusted or increased in size.

With respect to the first air gap having adjustable guide elements, Huettlin shows in Figs. 1, 4, and 6, that the design/arrangement of the return surface and/or base of the container can be changed or modified such that the air flow in the air gap is adjusted.

With respect to the base of the container being made with a plurality of concentric ring elements with different diameters, see Fig. 4.

With respect to the base not corotating with the wall, in Fig. 4, Huettlin illustrates an arrangement wherein the apparatus includes a stationary/non-rotatable base portion including legs for housing the motor (97) that rotates the container.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huettlin (WO00/10699) in view of Huettlin (DE 10104184).

The teachings of Huettlin '699 have been mentioned above, but Huettlin '699 is silent concerning the air gap in the base being adjustable in width. However, it was known in the art, at the time the invention was made, in an apparatus for treating particulate material with coating material, to provide adjustable base plates (62) in a container, the base plates being in communication with piston cylinder members (66) in order to adjust the width or gap size openings between adjacent base plates thereby adjusting the flow of air into the bottom of the apparatus as evidenced by Huettlin '184 (see Fig. 3 for example). It would have been obvious to one of ordinary skill in the art to provide piston cylinder type adjustment members as taught by Huettlin '184 in the apparatus of Huettlin '699 in order to adjust the amount of air fed into the container via the base.

With respect to the automatic opening and closing of the base via air guide elements therein, the apparatus as defined by the combination above would allow the user to control the opening and/or closing of the at least one air gap in the base via the piston cylinder type adjustment members. It would be within the level of ordinary skill in the art to vary and/or



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control the opening/closing of the at least one air gap in the base via the air guide elements or plural plates with the piston cylinder type adjustment members in order to prevent manual manipulation of the base and its part by the user when the apparatus is in operation mode or a shutdown mode.

***Allowable Subject Matter***

Claims 26-28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

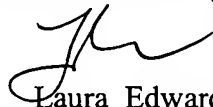
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Laura Edwards  
Primary Examiner  
Art Unit 1734

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April 7, 2006